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1616

MTC 6692.1 (39-21(3779)B)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit 1616

Application of David Z. Becher et al.

Serial No. 09/652,771

Filed August 31, 2000

Confirmation No. 4545

For ENHANCED METHOD OF KILLING WEEDS WITH GLYPHOSATE HERBICIDE

Examiner Alton Pryor

TUCK
#14
1-30-03

December 20, 2002

REQUEST FOR RECONSIDERATION

TO THE COMMISSIONER FOR PATENTS,
Washington, D.C. 20231

SIR:

In response to the Office action mailed October 2, 2002, application requests reconsideration of the rejections based upon the following remarks:

Rejection under 35 U.S.C. §112

Reconsideration is respectfully requested of the rejection of claims 6 and 20 under 35 U.S.C. §112, first paragraph, as not being enabled by the specification. It is said "the specification, while being enabling for N-(C₁₂₋₁₈ linear acyl) derivatives named in the specification, does not reasonably provide enablement for N-(C₁₂₋₁₈ linear acyl) derivatives unnamed in the specification."

Claims 6 and 20 require a surfactant that is an N-(C₁₂₋₁₈ linear acyl) derivative of an α -amino acid. α -amino acids are well known to those of ordinary skill in the art and are defined as having an amino group and a carboxyl group attached to the same carbon atom.¹ Applicants disclosed at page 8, line 31 the structure of an N-acyl derivative of the α -amino acid sarcosine and further defined the R and M moieties at page 7, lines 30-31. Applicants further disclosed at

¹Lehninger et al., *Principles of Biochemistry*, 2nd edition (1983) at page 69. For example: glycine (NH₂CH₂COOH); alanine (CH₃NH₂CHCOOH); and sarcosine (CH₃NHCH₂COOH). See *The Merck Index*, 12th edition.

page 8, line 32 through page 9, line 9: derivatives based on the α -amino acids glutamic acid, alanine, aspartic acid, glycine, isoleucine, leucine and valine; R groups of cocoyl, lauroyl and oleoyl; and eight examples of commercially available surfactants that fall within the scope of claims 6 and 20.

The enablement standard is met when the experimentation needed to practice the invention is not undue or unreasonable.² In particular, "[a]s long as the specification discloses **at least one method** for making and using the claimed invention that bears a reasonable correlation to the entire scope of the claim, then the enablement requirement of 35 U.S.C. 112 is satisfied."³

Applicants respectfully submit that claims 6 and 20 are described in such a manner as to enable one skilled in the art to make and use the claimed invention without undue experimentation. Those of skill in the art are familiar with the term α -amino acid as well as the compounds encompassed by that term. Moreover, the Office acknowledged enablement for N-(C₁₂₋₁₈ linear acyl) derivatives named in the specification.⁴ Applicants have disclosed eight α -amino acids that fall within the scope of claims 6 and 20 and further provide examples of eight commercial embodiments falling within the scope of those claims. Applicants therefore respectfully submit that the specification provides enablement for N-(C₁₂₋₁₈ linear acyl) derivatives unnamed in the specification and claims 6 and 20 are patentable under 35 U.S.C. 112 first paragraph.

Reconsideration is also requested of the rejection of claims 6 and 20 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. In view of the arguments presented above, the applicants respectfully submit that one of skill in the art would be fully apprised of the scope of claims 6 and 20 such that those claims satisfy the requirements of 35 U.S.C. §112, second paragraph.

In view of the above, applicants respectfully submit that claims 6 and 20 meet the requirements under 35 U.S.C. §112 and the pending claims are in condition for allowance.

²See MPEP §2164.01 and in particular §2164.01(a).

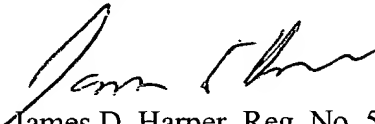
³Quoting MPEP §2164.01(b).

⁴Paper 13, page 2, paragraph 2.

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The Commissioner is hereby authorized to charge any underpayment or credit any overpayment to Deposit Account No. 19-1345.

Respectfully submitted,



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